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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/783,294	02/15/2001	Carmel Chi Him Lau	TPL 125	2654

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EXAMINER	
DAVIS, CYNTHIA L	

ART UNIT	PAPER NUMBER
2665	

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/783,294	LAU ET AL.	
	Examiner	Art Unit	
	Cynthia L Davis	2665	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-29* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,11,12,14,15,18,19 and 22-25* is/are rejected.

7)☒ Claim(s) *4-10, 13, 16-17, 20-21, 26-29* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *26 August 2000* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 12, and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Oltman.

Regarding claim 1, a method for preventing a layer-2 forwarding within a data-stitching network element, the method comprising: assigning a new network circuit to the data stitching network element and determining that the new network circuit is assigned a VLAN that was previously assigned to an existing network circuit is disclosed in Oltman, column 11, lines 46-48 and 58-63 (during fault condition, a data stitch is created and a new VLAN assigned to reroute the data; it would be determined whether the VLAN belonged to another circuit to protect customer network security). Running spanning tree on a data-stitch created by the new network circuit is disclosed in column 10, lines 6-7.

Regarding claim 12, defining a new network circuit for a network element and assigning a VLAN for the new network circuit is disclosed in Oltman, column 11, lines 46-48 and 58-63 (during fault condition, a new VLAN is defined and assigned to reroute the data). Running spanning tree on links of the network element associated with the new network circuit and assigned the VLAN is disclosed in column 10, lines 6-7. If the network element is a data-stitching network element, determining that the VLAN

assigned new network circuit was previously assigned an existing network circuit is disclosed in Oltman, column 11, lines 46-48 and 58-63 (during fault condition, a data stitch is created and a new VLAN assigned to reroute the data; it would be determined whether the VLAN belonged to another circuit to protect customer network security). Running spanning tree on a data-stitch created by the new network circuit is disclosed in column 10, lines 6-7.

Regarding claim 14, means for defining a new network circuit for a network element and assigning a VLAN for the new network circuit is disclosed in Oltman, column 11, lines 46-48 and 58-63 (during fault condition, a new VLAN is defined and assigned to reroute the data). Means for running spanning tree on links of the network element associated with the new network circuit and assigned the VLAN is disclosed in column 10, lines 6-7. If the network element is a data-stitching network element, means for determining that the VLAN assigned new network circuit was previously assigned an existing network circuit is disclosed in Oltman, column 11, lines 46-48 and 58-63 (during fault condition, a data stitch is created and a new VLAN assigned to reroute the data; it would be determined whether the VLAN belonged to another circuit to protect customer network security). Means for running spanning tree on a data-stitch created by the new network circuit is disclosed in column 10, lines 6-7.

2. Claims 15, 18, and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Naouri.

Regarding claim 15, removing a network circuit from the data-stitching network element is disclosed in Naouri, column 5, lines 33-35 (blocking the ports would remove

a network circuit). Determining that the removed network circuit was assigned a VLAN that is also used by another network circuit is disclosed in column 7, lines 63-67 (if the removed circuit is external, it would belong to a shared VLAN; if it is internal, it would have had its own VLAN). Removing spanning tree from a data-stitch associated with the other network circuit is disclosed in column 7, lines 45-48 (data stitches added to the cluster will join the whole cluster as one spanning tree, instead of running it itself).

Regarding claim 18, removing a network circuit from the data-stitching network element and disassociating links of the network element from a VLAN assignment associated with the removed network circuit are disclosed in Naouri, column 5, lines 33-35 (blocking the ports would remove a network circuit; if a VLAN is removed when a port is blocked, the links will be disassociated from it). Determining that the removed network circuit was assigned a VLAN that is also used by another network circuit is disclosed in column 7, lines 63-67 (if the removed circuit is external, it would belong to a shared VLAN; if it is internal, it would have had its own VLAN). Removing spanning tree from a data-stitch associated with the other network circuit is disclosed in column 7, lines 45-48 (data stitches added to the cluster will join the whole cluster as one spanning tree, instead of running it itself).

Regarding claim 25, the processor being further configured to disassociate links of the network device from a VLAN assignment associated with the removed network circuit is disclosed in Naouri, column 5, lines 33-35 (if a VLAN is removed when a port is blocked, the links will be disassociated from it).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 11 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oltman.

Regarding claim 11, assigning a new network circuit to the data stitching network element and determining that the new network circuit is assigned a VLAN that was previously assigned to an existing network circuit is disclosed in Oltman, column 11, lines 46-48 and 58-63 (during fault condition, a data stitch is created and a new VLAN assigned to reroute the data; it would be determined whether the VLAN belonged to another circuit to protect customer network security). Running spanning tree on a data-stitch created by the new network circuit is disclosed in column 10, lines 6-7. Computer code on a computer readable medium is not specifically disclosed in Oltman. However, Oltman does disclose in column 13, line 64-column 14, line 4, that any machine that performs the same functions disclosed is within the contemplation of Oltman's disclosure. It would have been obvious to one skilled in the art at the time of the invention to implement the method on a computer in code. The motivation would be to implement the method in a convenient, readily available type of machine.

Regarding claim 19, defining a new network circuit for a network element and assigning a VLAN for the new network circuit is disclosed in Oltman, column 11, lines 46-48 and 58-63 (during fault condition, a new VLAN is defined and assigned to reroute

the data). Running spanning tree on links of the network element associated with the new network circuit and assigned the VLAN is disclosed in column 10, lines 6-7. If the network element is a data-stitching network element, determining that the VLAN assigned new network circuit was previously assigned an existing network circuit is disclosed in Oltman, column 11, lines 46-48 and 58-63 (during fault condition, a data stitch is created and a new VLAN assigned to reroute the data; it would be determined whether the VLAN belonged to another circuit to protect customer network security). Running spanning tree on a data-stitch created by the new network circuit is disclosed in column 10, lines 6-7. Memory, one or more network interfaces, and a processor is not specifically disclosed in Oltman. However, Oltman does disclose in column 13, line 64-column 14, line 4, that any machine that performs the same functions disclosed is within the contemplation of Oltman's disclosure. It would have been obvious to one skilled in the art at the time of the invention to implement the method on a machine having a memory, network interfaces, and a processor. The motivation would be to implement the method in a convenient, readily available type of computer

4. Claims 2, 3, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oltman in view of Naouri.

Regarding claim 2, running spanning tree on the data-stitch blocks the data-stitch is missing from Oltman. However, Naouri discloses in column 7, lines 53-54, that running spanning tree may block links in a network. It would have been obvious to one skilled in the art at the time of the invention that running spanning tree could block a

data-stitch. The motivation would be to recognize a potential problem with running spanning tree.

Regarding claim 3, removing a network circuit from the data-stitching network element; determining that the removed network circuit was assigned a VLAN that also used by another network circuit; removing spanning tree from the other network circuit are missing from Oltman. However, removing a network circuit from the data-stitching network element is disclosed in Naouri, column 5, lines 33-35 (blocking the ports would remove a network circuit). Determining that the removed network circuit was assigned a VLAN that is also used by another network circuit is disclosed in column 7, lines 63-67 (if the removed circuit is external, it would belong to a shared VLAN; if it is internal, it would have had its own VLAN). Removing spanning tree from a data-stitch associated with the other network circuit is disclosed in column 7, lines 45-48 (data stitches added to the cluster will join the whole cluster as one spanning tree, instead of running it itself). It would have been obvious to one skilled in the art at the time of the invention to combine the method of Oltman with the method of Naouri. The motivation would be to be able to remove network circuits from the network.

Regarding claim 22, removing a network circuit from the data-stitching network element is disclosed in Naouri, column 5, lines 33-35 (blocking the ports would remove a network circuit). Determining that the removed network circuit was assigned a VLAN that is also used by another network circuit is disclosed in column 7, lines 63-67 (if the removed circuit is external, it would belong to a shared VLAN; if it is internal, it would have had its own VLAN). Removing spanning tree from a data-stitch associated with

the other network circuit is disclosed in column 7, lines 45-48 (data stitches added to the cluster will join the whole cluster as one spanning tree, instead of running it itself).

Regarding claim 23, disassociating links of the network element from a VLAN assignment associated with the removed network circuit are disclosed in Naouri, column 5, lines 33-35 (if a VLAN is removed when a port is blocked, the links will be disassociated from it).

5. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Naouri.

Regarding claim 24, removing a network circuit from the data-stitching network element is disclosed in Naouri, column 5, lines 33-35 (blocking the ports would remove a network circuit). Determining that the removed network circuit was assigned a VLAN that is also used by another network circuit is disclosed in column 7, lines 63-67 (if the removed circuit is external, it would belong to a shared VLAN; if it is internal, it would have had its own VLAN). Removing spanning tree from a data-stitch associated with the other network circuit is disclosed in column 7, lines 45-48 (data stitches added to the cluster will join the whole cluster as one spanning tree, instead of running it itself). A memory; one or more network interfaces; and a processor are not specifically disclosed in Naouri. However, column 15, lines 17-18 disclose that the method of Naouri may be run in various embodiments. It would have been obvious to one skilled in the art at the time of the invention to implement this method on a common computer, which would have a memory, network interfaces, and a processor. The motivation would be to use a common, readily available type of hardware to implement the invention.

Allowable Subject Matter

6. Claims 4-10, 13, 16-17, 20-21, and 26-29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia L Davis whose telephone number is (571) 272-3117. The examiner can normally be reached on 8:30 to 6, Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CLD CLD
2/1/2005 2/1/05

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